

REMARKS

In response to the Restriction Requirement dated April 2, 2007, Applicant provisionally elects, with traverse, to prosecute the invention of Group III, including claims 1-21, 31-39, 40-44, and 45-49. Grounds for traversal are presented below.

As an initial note, the Office Action refers to Group I as including claims 22-38 & 50-52. Applicant believes that Group I includes claims 22-28 and 50-52 and treats the Office Action as such. If this is incorrect, Applicant requests clarification and a full opportunity with which to respond.

No claims are amended and no claims are added or cancelled. Claims 1-52 are pending.

Grounds for Traversal

In restricting between Groups I, II, and III, the Office Action asserts that “subcombination II has separate utility such as calculating a quality measure as a function of a difference of an average intensity with respect to their percentile of their row.” See Restriction Requirement, section 2, page 2. However, Applicant submits that claim 29 (a member of Group II) refers to an image whereas the reasoning presented in the Office Action includes a reference to rows. The reasoning does not appear to support a restriction as between Groups I and II, between Groups I and III, and between Groups II and III.

Furthermore, the Office Action has not identified that one of the subcombinations has separate utility other than in a disclosed combination. Indeed, Applicant is unable to find, in the Office Action, identification of the disclosed combination in which the subcombinations I, II, and III are each separately usable.

For at least these reasons, Applicant submits that the restriction as to Groups I, II, and III is improper and respectfully requests reconsideration and withdrawal.

Applicant submits that the Office Action does not include a clear and detailed explanation of the restriction requirement. For example, the Office Action asserts that “inventions IV, V and VI are related as combination and subcombination. See Restriction Requirement, section 3, page 3. The Office Action refers to “combination V” however, it is unclear as to which of Groups IV

and VI are to be treated as a subcombination. Clarification and an opportunity to respond is respectfully requested.

The Office Action states “that if the applicant chooses subcombination III then he has to elect only ONE of the combination/subcombination groups (IV, V, VI).” Applicant requests clarification and an opportunity to respond. The Office Action statement does not appear to meet the requirements to establish an election of species requirement and the Office Action does not clearly identify the grounds for this requirement. If, however, the Office Action intended to request an election of species, Applicant provisionally elects the claims of Group IV.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6911 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date June 4, 2007

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 4th day of June 2007.

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